

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1407 of 1986

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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RAJENDRA OCCHAVLAL SHAH

Versus

BARODA MUNICIPAL CORPORATION

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Appearance:

MRS DT SHAH for Petitioner

MR GN DESAI for Respondent No. 1, 2, 3, 4, 5

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/07/96

ORAL JUDGEMENT

None appears.

2. The petitioner in this petition is serving as Senior Clerk in the respondent No.1 Corporation (hereinafter referred to as "the Corporation"). He is aggrieved by the action of the Corporation in promoting respondent No.4 and 5 as head clerk under the order dated 1st July, 1985. It is the case of the petitioner that

the petitioner being senior to respondent No.4 and 5, he should have been promoted as head clerk. He has further contended that the promotion granted to respondent No.4 and 5 in supercession of the petitioner is illegal and requires to be set aside.

3. The Corporation has contested this petition by filing its affidavit in reply made by the Deputy Municipal Commissioner (Administration). It has been stated that for being eligible for promotion to the post of senior clerk, junior clerk is required to pass the departmental examination. For promotion to the post of head clerk, over and above the departmental examination, a senior clerk is required to acquire Local Self-Government Diploma. Thus, only those who have acquired Local Self Government Diploma can be promoted as Head Clerk. It has been stated that respondent No.4 and 5 had passed Local Self Government Diploma and, therefore, said respondents were promoted as head clerk under the impugned order. However, the petitioner has not acquired the Local Self Government Diploma. The petitioner is, therefore, not eligible for promotion as head clerk. Thus, the petitioner not being eligible for the promotion to the post of head clerk, no mandamus can be issued to the corporation directing the Corporation to consider the case of the petitioner for promotion as head clerk.

In the circumstances, the petitioner cannot be granted the reliefs claimed by him. Petition is, therefore, dismissed. Rule is discharged. No order as to costs.

27.3.96.

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